

NOMINATION OF JAMES K. ASSELSTINE

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
SECOND SESSION
ON
THE NOMINATION OF JAMES K. ASSELSTINE TO BE A MEMBER
OF THE NUCLEAR REGULATORY COMMISSION

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NOMINATION OF JAMES K. ASSELSTINE

THURSDAY, MAY 6, 1982

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met at 2:10 p.m., in room 4200, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman) presiding.

Present: Senators Stafford, Domenici, Randolph, Simpson, and Symms.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The Committee on Environment and Public Works will come to order.

This afternoon, the Committee on Environment and Public Works will conduct a hearing in connection with the nomination of James K. Asselstine to be a member of the Nuclear Regulatory Commission.

This afternoon's hearing produces for this Senator, and for each of my colleagues on this committee, a sense of great personal pride. The reason is that we are here to take testimony from James K. Asselstine, whom President Reagan has nominated to serve as a member of the Nuclear Regulatory Commission.

We believe Mr. Asselstine is the most knowledgeable and effective congressional staff member on nuclear regulation issues. He has served each member of this committee, as well as the Senate, with great distinction over the past 4 years. First, he was the minority counsel to our Subcommittee on Nuclear Regulation. Now he serves as majority counsel to the subcommittee. He has participated in the development of all the nuclear legislation that has been adopted by the Congress in those 4 years, and played a major role in the committee's thorough report on the Three Mile Island disaster.

For those of us who have been privileged to work with him, Mr. Asselstine's selection by the President demonstrates once again the excellence of many of the people being attracted to the executive branch.

Yet, because of my very high personal regard for Jim Asselstine, our audience might assume that this hearing will be perfunctory. Nothing could be further from the truth.

The work of the NRC is among the most important of any of the independent agencies of our Government. Mr. Asselstine's new responsibilities as a member of the Commission would be unlike any of the work he has undertaken to date. To assure the Senate and the

Nation that we have given the most careful review of this nomination, we intend to question Mr. Asselstine with great care and seriousness. The committee will schedule no vote on his nomination until we have received answers to various written questions that may be submitted to the nominee.

With those preliminaries, Jim, we welcome you. We have long valued your effective analyses and suggestions. And indeed we may be a little bit apprehensive about our future in the subcommittee without your presence.

I know you are about to be introduced by the most distinguished Senator from Wyoming, who is chairman of the Subcommittee on Nuclear Regulation.

Senator Simpson, we are honored that you are here in the unusual position of being at the witness table instead of up here.

STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR FROM THE STATE OF WYOMING

Senator SIMPSON. It is more fun down here.

Mr. Chairman, I have decided to take the Commission job myself.

Senator STAFFORD. I would say to my distinguished colleague that we hear that announcement with relief.

Senator DOMENICI. Quite to the contrary, I wasn't going to stay long but if he is serious, I will stay.

Senator SIMPSON. I don't want you to get carried away.

Let me just say, Mr. Chairman, that I really do have mixed emotions today. You know, the definition of "emotion," that is when your only daughter comes home on time from her first date with a Gideon Bible under her arm.

I will let you think about that one for a while.

I am here introducing to the committee a man nominated by the President of the United States to be a member of the Nuclear Regulatory Commission. What kind of an introduction does he need to us? Not much. He has been right here at this table to assist us in this committee for these past, nearly 5 years. Each and every one of us in this hearing room has benefited immeasurably from his able and dedicated service as a member of the professional staff of the Environment and Public Works Committee.

He is a professional in every sense of the word. I won't go into his amazing professional background and his job that he has held, but he did graduate from the Virginia Polytechnical Institute with a B.A. and received his J.D. from the University of Virginia, and he presently resides in Alexandria with his wife, Bette—who is here, and sister, Bev, and a neighbor, Jeanne Mitchler-Fiks. But, it is a compliment to the Senate, as an institution, that a committee staff person has been selected for such an important position of this nature in the executive branch. Jim Asselstine is one of those class staff persons who demonstrates the absolute importance, the absolute need we have in this Congress of having sound and balanced people around us available to assist us on the extremely technical and wide ranging issues that we face daily, and he has performed with such real skill and grace in that arena, and those are the very qualities that make him an

outstanding selection to serve as a member of the Nuclear Regulatory Commission.

I have relied on him and I trust him. I always will. His knowledge of nuclear issues is solid, developed through years of experience, and his background has helped me immeasurably as I took over the task of, not only ranking member of the Subcommittee on Nuclear Regulation, but then as the chairman.

As counsel to the subcommittee he has unfailing been able to present all of the technical details as well as the policy options of nuclear issues in a most balanced way. His integrity and his sound judgment has served every member of this committee well.

I think the thing that has impressed me most about him, and obviously I am not objective, is his advice, his counsel, and his personal judgment were always presented in just that way, not as some pronouncement from the Great Oz or a fact-of-the-matter or a state-of-the-art decision. That is quality that peculiarly sets him apart from those persons who never seem to make that distinction when debating the critical situations of nuclear policy or any other policy.

His personal traits are extraordinary. His consciousness—and I know the long hours he has labored for me as we get ready for a hearing or a bill to manage on the floor—his high degree of conscientious behavior consistently demonstrated in the performance of his duty and he has served this subcommittee and the full committee in a remarkable fashion.

It has been a real rich personal privilege and pleasure and a very enjoyable experience to be able to learn right along with him the intricacies and the technical details of nuclear issues which came before the jurisdiction of this committee. His ability to take a complex issue and get it explained to me—when I came on here I didn't know a Zippo lighter from a zirconium-alloy. It has been a most important part of my learning process to have had a staff assistant like Jim.

So, I want to say that we were thrown into the fray together at a rather jarring way when I had been here less than 2 months and suddenly I am on a helicopter with Jim Asselstine headed for Three Mile Island. But with Jim's guidance and advice and expertise, I survived that experience. I owe him a personal note of gratitude in that regard and his role last week in the development and passage of the nuclear waste legislation which this Senate debated and approved must be remembered as one of his most significant contributions to nuclear policy in this Nation.

It is with those great feelings, that the United States will have his skills and his knowledge to assist in the serious decisions of nuclear energy and a real sadness for me, as I feel I lose his capable counsel. I feel like somebody snatched a quarter of a hemisphere of the nuclear energy side of my brain on that one because of my high regard and my reliance on this person. He will be a tremendous member of the Nuclear Regulatory Commission and each and every one of us on this committee knows that.

I think it is an important appointment for you to take, Jim, at this new career phase of your life and I wish you well.

Senator STAFFORD. Thank you very much, Senator Simpson. We appreciate your being here and we know you worked long and hard with

Jim Asselstine. What you said will have great bearing on the rest of the committee.

Knowing you may be busy elsewhere, we welcome you to stay, but if you feel you must leave, we understand.

Senator SIMPSON. Thank you for your courtesy.

Senator STAFFORD. Senator Domenici.

**OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR
FROM THE STATE OF NEW MEXICO**

Senator DOMENICI. Thank you, Mr. Chairman. I am not going to be able to stay, we are going to try to finish that budget resolution this afternoon.

I think the nominee knows how I feel about him. I wouldn't have had to come here to say anything in that regard, but I wanted to put something on the record so others would know.

I have mixed emotions too because I wonder why he would want that job. But I can say this, the Nuclear Regulatory Commission will be better for his going there and it is a very important part of our Government's regulatory process. From what I have seen of this young man, since he has spent most of his legislative assistance in this very complicated area, which is both a mixture of reality and politics, and consequently it takes real genius to get anything done because it isn't enough just to have facts, you have to be able to figure out how to get it done.

I see a reasonable similarity between the ability to succeed here and the challenge ahead of him over there. That Commission desperately needs him. I hope in 4 or 5 years there will be some people like us who can report that he succeeded there as he succeeded here in helping us do our job.

I think we would like to also tell the President, by our actions, that we commend him for choosing him. That Commission needs someone just like this.

I wish him well. I think he knows we are all his friends here and we hope that every now and then, even if it is in a casual way, he will return and share with us his expertise and wisdom and from time to time to share with us the concerns that he finds from inside because it is our jurisdiction to see to it that that Commission is given the legislation that will permit it to operate.

Thank you for helping. Good luck, Jim.

Senator STAFFORD. Thank you very much, Senator Domenici.

Before we get to your statement, Jim, I am going to place in the record, without objection, a statement from Majority Leader Howard Baker, and a statement from our colleague on the committee, Senator James Abnott, and I am going to make it plain that we will accept statements for the hearing record through Friday, May 14.

[The statements follow:]

**OPENING STATEMENT OF HON. HOWARD H. BAKER, JR., U.S.
SENATOR FROM THE STATE OF TENNESSEE**

Senator BAKER. Mr. Chairman, my distinguished colleagues on the committee, I am pleased to have this opportunity to speak in support of the nomination of James Asselstine for the Nuclear Regulatory

Commission. It is easy for me to be enthusiastic about Mr. Asselstine's nomination, because I believe the President has submitted to the Senate the name of an individual of exceptional qualifications for a difficult job.

Jim Asselstine is an outstanding candidate. He has almost 10 years of service in the field of nuclear regulation. His long and varied experience in nuclear regulatory matters means that he will bring with him to the Commission a body of knowledge, a depth of understanding, and a broad perspective which will serve the Commission well. During his 4 years on minority and now majority staff on this committee, Jim has frequently exhibited his skills in the focus of major debates of national importance to the nuclear power enterprise. His work as the minority staff person responsible for oversight on the investigation into the Three Mile Island accident, and his role in assisting my distinguished colleagues on the subcommittee and on the Committee on Energy and Natural Resources in drafting legislation was a distinguished and valuable contribution.

He has played an equally significant role in helping the members of those two committees develop the National Nuclear Waste Policy Act, recently passed by the full Senate. That legislation is an milestone along the road to the development of a comprehensive national strategy for the safe handling and ultimate permanent disposal of nuclear wastes. Jim Asselstine has directed the activities of the Nuclear Regulation Subcommittee staff with characteristic skill and competence as the subcommittee exercised its oversight responsibilities at a time of reorganization and difficult readjustment for the Commission and its staff over the last 3 years. In all of these matters, and in the many other tasks which Jim has been called on to perform in the course of his service to this committee, he has carried out his duties with diligence and professionalism. Those of us who have worked with Jim have come to respect him not only for his professional competence, but for his fairness, good sense, and good humor. Jim has earned the respect of those on all sides of the nuclear debate.

Mr. Chairman, my distinguished colleagues on the committee, this is a crucial time for the nuclear industry, an industry that has been driven to the point of paralysis by an array of economic and regulatory problems which have been to a large extent beyond its control. But despite the difficulties, we cannot forget the bitter lessons learned in 1973, and again in 1978.

The nuclear energy option, along with all other environmentally acceptable energy options, simply must be preserved and nurtured if this country is not to be condemned to relearn the lessons of the 1970's in the decade of the 1980's. Significant and encouraging changes are in progress that will permit us to preserve the appropriate role of nuclear power in this country's energy future. The President, in his October policy statement on nuclear power, has reaffirmed the commitment of the administration to a healthy nuclear energy program.

Mr. Chairman, as you and the members of this committee know so well, there are many challenges ahead for the nuclear enterprise: the final resolution of the waste issue; nuclear non-proliferation policy; questions over reprocessing; the economic straits of the utilities, and in the minds of some, even questions of the need for nuclear power

at a time of apparent energy plenty. But underlying all of these problems, and the principal task of this committee in its oversight responsibilities, is the need to insure that nuclear power is safe and environmentally acceptable.

In this task, the Nuclear Regulatory Commission has a fundamental role. The Commission itself must never forget or fail in its resolve to carry out its single, central policy objective: the protection of the public health and safety. Public confidence in nuclear energy is in large measure dependent upon full public confidence in those charged with the responsibility to regulate and oversee the nuclear power industry. I believe that this appointment will do much to preserve that confidence. James Asselstine brings a wealth of talent and experience to this appointment. He is a man whose reputation will bring strength to the Commission. Much will be expected and demanded of him. He faces a formidable task, but one I am confident he will fulfill with distinction. When this committee finishes its hearings and consideration of his nomination, I am confident that it will recommend the confirmation of Mr. Asselstine by the Senate.

**OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR
FROM THE STATE OF SOUTH DAKOTA**

Senator ABDNOR. Mr. Chairman, I want to reiterate your words of praise for James K. Asselstine, whose nomination to the Nuclear Regulatory Commission we are considering.

In the 11½ years I have served on the Committee on Environment and Public Works, I have been particularly impressed with the way in which Jim has worked for the members of this committee and the Senate.

Jim Asselstine has been particularly helpful to me in his efforts relating to an amendment that was added recently to the NRC authorization bill. That amendment, which clarifies the responsibilities of various agencies to clean up uranium mill tailings in the vicinity of the mill site at Edgemont, S. Dak., represents an important step forward for the people of my State. Jim has played a constructive and vital role in working to bring about a resolution to the environmental, and resulting economic, problems which have plagued the Edgemont community for some time. I appreciate greatly his dedication to this issue, as do the people of South Dakota.

Mr. Chairman, many fine men and women work for the members and committees of the U.S. Senate. None, I believe, has done a finer job on behalf of the people of this Nation than Jim Asselstine; none, I am confident, will serve our Nation more effectively as a member of the Nuclear Regulatory Commission.

Thank you.

Senator STAFFORD. Having said that, if I were advising you as a lawyer, I would say don't say anything to us, just go on the record. As my father used to say to me: When you are ahead, keep your mouth shut.

We will be glad to hear from you.

**STATEMENT OF JAMES K. ASSELSTINE, NOMINEE, TO BE A MEMBER
OF THE NUCLEAR REGULATORY COMMISSION**

Mr. ASSELSTINE. Thank you, Mr. Chairman. I have just a brief statement.

I am pleased and honored to appear before you and the other members of the Committee on Environment and Public Works this afternoon. As you know, I have been nominated by the President to become a member of the Nuclear Regulatory Commission.

Because my background and experience are relevant to this appointment, it might be useful to summarize them briefly. I am an attorney, and my professional career has been devoted to Government service in the field of nuclear regulation. After graduating from law school in 1973, I served as legal intern and then as staff attorney with the NRC's Atomic Safety and Licensing Appeal Panel. This is a small group of attorneys, scientists and engineers with responsibility for hearing appeals from initial nuclear powerplant licensing decisions by the Commission's licensing boards. In 1975, I joined the staff of the congressional Joint Committee on Atomic Energy as assistant counsel to that committee. From 1977 to 1978, I served as a staff attorney with one of the Commission's two legal offices—the Office of the Executive Legal Director. My work with the Legal Director's office related principally to rulemaking activities concerning nuclear powerplant siting and licensing.

**OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM
THE STATE OF IDAHO**

Senator SYMMS. Excuse me for interrupting, Mr. Asselstine. Mr. Chairman, Senator Domenici has asked me to get up to the Budget Committee because we don't have proxy voting there and I would like to make a brief opening statement before I leave.

I am extremely happy to have the opportunity to support Jim Asselstine's nomination to the Nuclear Regulatory Commission. I am somewhat worried about how Senator Simpson will do without you, but I now know why he was talking about giving up the chairmanship of the subcommittee in favor of the FBI Investigative Committee. I might do the same thing if I were losing my right hand staffer, whose judgment and expertise has been invaluable to the workings of this subcommittee.

Jim, I do wish you every success. You are undertaking a very critical position in the Government, because you will be vested with the responsibility of assuring the public that this Nation can develop nuclear power safely and cleanly. It is incumbent upon those of you who are vested with that responsibility to be able to give that kind of professional judgment that will objectively assess the safety of nuclear power. If we can accomplish that goal, this country will have a viable alternative to our overdependence on the OPEC nations.

I will be happy to support your nomination before this committee and on the Senate floor. Your presence and counsel on the subcommittee will be missed by this Senator.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much. If there is no objection, we will place your statement with the other opening statements.

Jim, we are going to interrupt you further to allow Senator Randolph to make a statement.

**OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S.
SENATOR FROM THE STATE OF WEST VIRGINIA**

Senator RANDOLPH. Thank you, Mr. Chairman. I regret not having been here earlier, but I do want to join you and my colleagues in saying that it is not only a privilege to have you present this afternoon, especially with someone with whom we have worked, who is in the confidence of the President, and I believe will be responsive to the responsibility in our government.

I know, as we listen to Jim Asselstine, we do remember him for many good deeds that he did on this Hill. I think we ought to mention those matters at a time like this. Now that he has been chosen to be a member of the Nuclear Regulatory Commission, it is a further indication of his standing in this very difficult subject.

I think it has been just about 5 years since our committee assumed the legislative responsibility for the civilian atomic effort in our country. I believe that in 1977 we were newcomers to this area because of the changes made in jurisdiction, and then a short time afterward we were very fortunate that Jim joined our staff. He brought with him not only experience in nuclear matters but his depth of knowledge of the Congress—I think you have a lot of commonsense too. Sometimes I like to express that.

Jim has contributed in large degree to our ability to assimilate a new jurisdiction and I never knew of any partisanship in the sense that we never allowed it to surface in this committee or among our staff.

It is perhaps rather trite to say that our country has a plateful of problems and certainly among these issues is nuclear energy. I think if we look at these problems as challenges, we can settle many of the questions which are before us.

And so, in your new post of duty—I am glad members of your family are here with you today—we wish you and those who are close to you that strength that comes from a common feeling that not only do we have a new assignment, but that we can with vigor and integrity do the work set before you.

Thank you.

Senator STAFFORD. Thank you very much, Senator Randolph.

Before you start again, Jim, I could almost inquire of your wife and sister, who are both here, if they recognized you from the descriptions you received from members of this committee.

Would you please go ahead.

Mr. ASSELSTINE. Thank you, Mr. Chairman.

Since 1978, I have served as an associate counsel with this committee, with responsibility for nuclear regulatory matters. One of my assign-

ments during this period was to serve as one of the two staff codirectors of the investigation conducted by the Nuclear Regulation Subcommittee of the nuclear accident and recovery at Three Mile Island.

Mr. Chairman, my work for this committee, as well as my previous experience in the nuclear energy field, has demonstrated to me the critical need for a vigorous, open and effective nuclear regulatory program in this country. A strong, objective and independent Nuclear Regulatory Commission dedicated to the protection of the public health and safety, and working in partnership with the Congress, is an essential element in such a program. I believe that my background and experience may be helpful to the Commission in meeting the needs of our nuclear regulatory program.

Mr. Chairman, I believe the Commission faces a number of significant challenges over the next few years. Among those that I believe the Commission should give priority attention to are the following:

First, there is the need to continue to restore and foster public confidence in our nuclear regulatory program. The Commission, through its attention to the problems identified as a result of the Three Mile Island accident and through its application of an aggressive enforcement policy, has done much to restore the credibility of the agency since the Three Mile Island accident. I believe that these efforts should continue as one of the highest priorities of the agency.

Second, the Commission must fulfill its responsibility for establishing the necessary regulatory program to assure a safe and timely solution to the nuclear waste disposal problem.

Third, there is the need to improve the nuclear powerplant licensing process. I believe that the Commission should apply four criteria in considering reforms to the licensing process. These are: the need to assure sound safety, environmental and common defense and security judgments; the need to provide a fair and meaningful opportunity for public participation in the licensing process; the need to provide greater predictability and stability to the process; and, consistent with the foregoing, the need for efficient operation of the licensing process. The NRC now has underway a review effort aimed at recommending changes to the licensing process, and I believe that the present process can be improved in each of the areas that I have mentioned. Some of these improvements can and should be undertaken administratively by the Commission; others may more appropriately be the subject of legislative recommendations to the Congress.

Fourth, there is the need to address promptly a number of identified safety issues that have remained unresolved for far too long.

Fifth, there is the need to improve the quality of construction for nuclear powerplants. Recent problems at a number of construction sites indicate that this is an area in need of prompt attention by both the Commission and the industry.

Finally, there is the need to ensure the adequacy of emergency planning, and the preparedness of the Commission, the utility operators, and State and local governments to respond effectively to any future nuclear accident. Although much has been accomplished in this area, I believe that continued Commission attention is needed here. If confirmed, I would work closely with Chairman Palladino and with each of the other Commissioners to meet these and other challenges that may face the Commission in the coming years.

Mr. Chairman, I believe that nuclear energy can make a significant contribution to meeting the energy needs of this country, and that this can be accomplished in a manner that will provide adequate protection to the public health and safety, the environment and the common defense and security. I appreciate the importance of the challenges facing the Commission, and I would welcome the opportunity to help meet these challenges.

Thank you.

Senator STAFFORD. As I usually inquire in behalf of the committee, the committee has received a letter from the Office of Government Ethics stating that you are in compliance with applicable laws and regulations governing conflicts of interest.

Do you hold any possessions, own any properties which might cause you to be in a conflict of interest position with this new responsibility on the Nuclear Regulatory Commission?

Mr. ASSELSTINE. No, Mr. Chairman, I do not.

Senator STAFFORD. Would you willingly, at the request of any committee of the Congress, appear as a witness in front of such committee?

Mr. ASSELSTINE. Yes, Mr. Chairman, certainly.

Senator STAFFORD. There has been some speculation that you have committed yourself to support the earlier resumption of the construction of the Clinch River breeder reactor in Tennessee. Have you been asked to make such a commitment, have you offered such a commitment, or have you committed yourself on any other issue that is now before the Commission, or is likely to come before the Commission?

Mr. ASSELSTINE. Mr. Chairman, I have not been asked to make any commitment with regard to any decision relating to Clinch River or any other matter. I have not made such commitment at all.

Senator STAFFORD. What is your view on the Clinch River breeder reactor, if you have one?

Mr. ASSELSTINE. I do not have a view at this time nor do I believe it would be appropriate for me to have a view at this time on any of the matters that may well come before the Commission as part of its responsibilities. I think it would be more appropriate that a position be developed after reviewing the information that will be on the record on those issues.

Senator STAFFORD. Thank you, Jim.

I am, for the committee, going to submit several other questions to you to respond in writing and other members of the committee may wish to do so. Also, I am going to hold the record open for them to submit questions for as late as close of business tomorrow. But the quicker we get the answers, the quicker we can act.

Senator Randolph, do you have some questions?

Senator RANDOLPH. Thank you, Mr. Chairman.

The nuclear power industry has suffered many problems in recent years. These have been both technical and financial. The result, according to my study, has been a virtual halt in the development of new nuclear powerplants.

What series of events or changes in public policy do you believe reverse that situation?

Mr. ASSELSTINE. Senator Randolph, I think there are a number of changes that would have to occur to reverse that situation. Those relate to a variety of factors. First, there has been a virtual stop in the growth and demand for electricity that has resulted in a number of utilities canceling plants that they now have and virtually no new orders for plants, whether or not they are nuclear or other power sources. I think at the outset there would have to be an increase in the demand for electricity. The demand for electricity has changed quite dramatically over the last 10 to 12 years and it is very difficult to predict what will happen with the demand for electricity in the future.

Second, because nuclear powerplants are large and expensive construction projects, there will, in all likelihood, have to be an improvement in the economic situation before there is a turnaround.

Third, I think there has been a further resolution of some of the remaining problems from Three Mile Island that still have not been fully resolved. Those include, for example, assessing the consequences of the kinds of accidents that we now know might well occur at nuclear powerplants and deciding what changes, if any, need to be made to help either prevent those accidents or minimize their consequences.

Fourth, I think there really needs to be positive steps toward the solution of the nuclear waste problem. The Senate took a first step toward that last week with the enactment of a comprehensive nuclear waste bill; that is the first step. Now there needs to be the steps by the agency in the executive branch and the regulatory agencies to assure that we will in fact have safe and timely solution to the waste problem.

Those are at least some of the elements.

Senator RANDOLPH. I thank you.

You spoke of future demands for energy and I am sure you understand we have options. I think we will always have those to meet our needs. I have a strong reliance in my thinking, I hope it is shared by you, that our most abundant domestic fuel source, coal, must be used. What do you think?

Mr. ASSELSTINE. Yes, Senator Randolph, I agree with that. I think this country has a number of energy sources available to it, nuclear is one, coal is another one. I don't think any one option will solve all of the problems. I think we need to conserve our energy resources to the extent we can.

Senator RANDOLPH. Thank you.

Senator STAFFORD. Thank you, Senator Stafford.

Unless you have some further statement you want to make, Jim, we declare this meeting adjourned.

[Whereupon, at 2:45 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

[Responses to written questions follow:]

QUESTIONS SUBMITTED FOR THE RECORDBY SENATOR ROBERT T. STAFFORD

QUESTION 1. Do you see any problem with overcoming various NRC licensing delays?

ANSWER

It now appears that the administrative changes adopted by the Commission over the past year relating to NRC staff safety reviews and the conduct of hearings on operating license applications, together with revisions in utility construction schedules for plants under construction, will eliminate virtually all of the operating license delays that were projected early in 1981. These developments, along with the enactment of legislation to give the Commission the authority to issue interim operating licenses, should essentially eliminate the possibility of unnecessary delays in the issuance of new operating licenses for nuclear powerplants at least until the end of 1983.

The administrative changes that have been adopted by the Commission thus far, and the interim operating license authority, are essentially short-term measures and do not alter the principal features of the NRC's nuclear powerplant licensing process. I believe that there is a need for the Commission and the Congress to re-examine the licensing process and to consider the need for reforms to the process. The criteria that I would use in evaluating reform proposals are: the need to assure sound safety, environmental and common defense and security judgments; the need to provide a fair and meaningful opportunity for public participation in the licensing process; the need to provide greater predictability and stability to the process, and the need for efficient operation of the process. I believe that such reforms may also reduce the risk of unnecessary licensing delays for the longer term.

QUESTION 2.

It has been more than three years since the accident at Three Mile Island, and substantial progress remains to be made in the cleanup of the reactor. What steps would you recommend or support to expedite the cleanup program, consistent with the agency's responsibilities to protect the public health, safety, and environment?

ANSWER

I agree fully with the views of the present NRC Commissioners that the cleanup of Three Mile Island Unit 2 must be accelerated. As the Nuclear Regulation Subcommittee's report on the Three Mile Island accident and recovery found nearly two years ago, and as NRC has reaffirmed recently, delays in the cleanup and the resulting continued deterioration of plant equipment increase the risk of radiation leakage that could cause exposures to plant workers and to the public. I believe that this risk calls for prompt action by all involved parties to move ahead with the cleanup in a safe and environmentally acceptable manner.

It appears that the Commission has now taken the necessary steps to carry out its regulatory responsibilities for assuring the protection of the public health, safety and the environment. The NRC published a programmatic environmental impact statement on the TMI cleanup in 1980. NRC also established a Three Mile Island Program Office, and this office recently published its plan for carrying out NRC's regulatory responsibilities for the cleanup operations.

I agree with NRC's response to questions from the Committee earlier this year that "a lack of financial resources is the fundamental restraint delaying progress toward completing the TMI-2 cleanup." Therefore, I would recommend steps to remove the financial obstacles to proceeding with the cleanup as soon as possible.

QUESTION 3.

Can you tell us your views on legislation that could shift to utility customers outside the Three Mile Island service area some of the costs of the Three Mile Island cleanup?

ANSWER

I believe that legislation, such as that now pending before this Committee (S. 1606), to require other utilities owning nuclear powerplants to pay a portion of the cost of the Three Mile Island cleanup must be evaluated by considering: (1) the risk to the health and safety of the workers at the plant and the public in the vicinity of the plant if cleanup is substantially delayed; (2) the likelihood that such legislation, together with other actions already taken, will permit prompt action on the cleanup; and (3) the likelihood that, in the absence of such legislation, progress on the TMI cleanup will be substantially delayed and even less acceptable alternatives for funding the cleanup will become more likely.

On the first point, the NRC has already noted that substantial delays in the TMI cleanup will increase the risk of accidental radiation exposures to plant workers and to the surrounding public.

On the second point, NRC has noted that the lack of a solution for financing the cost of cleanup is the fundamental restraint delaying progress toward completing the TMI cleanup. Since it became apparent after the Three Mile Island accident that the amount of property insurance coverage for that plant was inadequate to cover the cleanup cost, a number of alternatives for financing the cleanup have been examined. In July 1981, Governor Thornburgh of Pennsylvania proposed a plan to finance the cleanup that incorporated a cost-sharing approach involving several financing alternatives. Under the Thornburgh plan, the cost of cleanup would be shared, with payments by: (1) the Federal Government, through a research and development program (25 percent); (2) the States of Pennsylvania and New Jersey (6 percent total); (3) the General Public Utilities companies to the extent of all remaining property issuance on the plant (12 percent); (4) the GPU ratepayers, beginning after the restart of Unit 1 of the TMI plant (32 percent); and (5) other electric utilities, and nuclear reactor manufacturers and suppliers (25 percent).

Action by the Congress, in funding a three-year research and development program related to the cleanup, and ratemaking actions taken by the Pennsylvania PUC and pending before the New Jersey BPU, would appear to put in place two of the sources of funding identified in the Thornburgh plan. Given the actions that have already been taken by the Federal Government and by State officials, it appears that enactment of legislation to require other electric utility contributions to the cleanup would result in a solution to the financial problem, thereby permitting cleanup to proceed promptly.

QUESTION 8.

In February of this year, the NRC published for public comment a policy statement on a safety goal for nuclear power reactors. What role do you envision for the safety goal and, in particular, how would you propose to employ the safety goal in the context of individual licensing actions?

ANSWER

In general, I believe that safety goal can be useful in more clearly defining the level of safety to be achieved in protecting against nuclear powerplant accidents and in assuring more consistent and uniform individual licensing determinations on a case-by-case basis. I support the broad concept for using the safety goal in individual licensing actions contained in the Commission's safety goal proposal. Under this concept, the safety goal, used in conjunction with probabilistic risk assessment, would become an additional means of assuring adequate protection of the public health and safety, and would not displace the present Commission licensing approach of assuring compliance with the Commission's detailed safety regulations. The safety goal may also be useful in determining whether to impose additional regulatory requirements on operating plants or plants under construction. The Commission has directed the NRC staff to prepare a detailed plan for implementing the safety goal. Any final decision on using the safety goal in individual licensing actions should be made based upon the public comments received on the safety goal and a review of the NRC staff's detailed implementation plan.

QUESTION 4.

The Nuclear Regulatory Commission was reorganized in 1980 to strengthen the management of the agency and to improve safety in all of the agency's activities. Are there additional changes that, in your judgment, would contribute to greater efficiency and a more effectively managed agency?

ANSWER

I believe that the NPC Reorganization Plan adopted in 1980 gives the Commission sufficient authority to ensure the efficient and effective management of the agency. There may be additional actions that the Commission could take under the Reorganization Plan to make further improvements in agency management. In particular, I would like to review the roles of the Executive Director for Operations and the recently-established Committee to Review Generic Requirements. I believe that the Executive Director for Operations should have the authority needed to play an active role in the day-to-day management of the agency and in the coordination of the activities of the principal NRC staff offices. I also believe that there is a need for an organization, such as the Committee to Review Generic Requirements, within NRC to provide greater centralized management control, and greater uniformity and consistency, in the NRC staff's regulatory requirements.

QUESTION 5.

What steps should be taken to improve the present process for the licensing of nuclear power reactors? Are there areas, in particular, where legislation would be necessary or helpful to improve the process?

ANSWER

The Commission has established a Regulatory Reform Task Force with responsibility for recommending to the Commission legislative and administrative reforms to the nuclear powerplant licensing process. I would expect to review carefully the recommendations of that Task Force before reaching any final judgments on various reform proposals. However, in general, I believe that a number of changes to the licensing process should be considered by the Commission from the standpoint of their ability to improve the soundness of the Commission's licensing decisions, the opportunity for public participation, and the stability, predictability and efficiency of the licensing process. These include: greater flexibility in the licensing process to permit the expanded use of standardized plant designs; the use of a combined construction permit and operating license; the elimination of mandatory hearings in uncontested construction permit proceedings; changes to NRC's hearing procedures similar to the new hearing procedures contained in the Senate-passed nuclear waste bill (S. 1662) for utility applications to expand at-reactor spent fuel storage; provisions to assure greater uniformity and consistency in NRC decisions on whether to impose new requirements on existing licensees (backfitting); changes in the authority of NRC's licensing and appeal boards to consider issues that have not been raised by parties to the proceeding (the *sua sponte* authority); and changes to the present role of the NRC staff in individual licensing proceedings and the present restrictions on the Commission's ability to consult with the NRC staff on issues in individual licensing proceedings (the *ex parte* restrictions).

It appears to me, at least at this point, that legislation would be necessary or helpful in the case of proposed changes to NRC's hearing procedures, proposed changes to make discretionary a mandatory hearing requirement, and at least some of the possible proposed changes to expand the use of standardized plant designs.

QUESTION 6.

What do you view as the proper relationship between the Executive Branch and the NRC on nuclear regulatory matters?

ANSWER

I believe that the NRC has the principal responsibility for nuclear regulatory matters, as provided under the Atomic Energy Act and the Energy Reorganization Act. I also believe that the Commission must carry out this responsibility to protect the public health and safety, the environment, and the common defense and security in the activities it regulates as an independent agency, without influence from the Executive Branch.

There are certain areas in which both the NRC and an Executive Branch agency have regulatory responsibilities. For example, in many radiation areas, including nuclear waste disposal, both NRC and EPA have regulatory responsibilities. The same is true for NRC and the Department of Transportation in the packaging and transportation of nuclear materials. In these areas, I believe it is important for NRC to coordinate its regulatory requirements and programs with those of the other agency to ensure a consistent and national regulatory program.

In other areas, NRC may actually regulate and license the activities of an Executive Branch agency, as will be the case for a Department of Energy proposal to construct a nuclear waste repository. In these cases, the relationship should be that of an independent regulatory agency to a licensee or license applicant.

QUESTION 7.

What do you view as the most significant problems now confronting the NRC? What specific steps would you take or recommend to address these problems?

ANSWER

I believe there is a continuing need to build public confidence in the Commission and its regulatory program. The Commission's efforts to address the problems identified as a result of the Three Mile Island accident, and its vigorous enforcement program in recent years, have been effective in restoring public confidence, and I believe these activities should be continued, and work on the TMI-related issues should be completed as soon as possible. I also believe the Commission should do everything possible to assure that it reaches sound safety, environmental and security judgments in an open and objective manner.

A second problem is the need to address the unresolved safety issues that have been identified. Although the NRC has a program for resolving these issues, I would favor accelerating the present schedule for completing this work.

A third problem is the need to improve the nuclear powerplant licensing process. The NRC already has a Task Force charged with making recommendations in this area, and I would urge prompt Commission action to identify and put into effect appropriate reforms.

A fourth problem is the need to establish the necessary regulatory requirements for the nuclear waste disposal program. The NRC has already done considerable work on the licensing procedures that would apply to an application to build a nuclear waste repository. NRC has also proposed technical criteria that would apply to such an application. I believe that NRC should move forward on these items, coordinating with EPA in the exercise of that agency's environmental standards-setting responsibilities.

A fifth problem is the need to improve the quality of construction for nuclear powerplants. Recent problems at a number of plant construction sites indicate that this is an area in need of prompt attention by both the NRC and the industry. A number of alternative concepts for improving construction quality assurance and quality control were identified in an amendment adopted recently by the Senate in action on the NRC authorization bill. I believe the Commission should undertake a study of these concepts and put into effect those concepts that would be useful in improving nuclear powerplant construction quality.

On the third point, recent testimony before the Congress indicates that legislation to require other utility contributions to the cleanup is necessary to obtain those contributions. That testimony also indicates that the utility contributions are needed to carry out the other elements of the Thornburgh plan, particularly the State and GPU ratepayer contributions. Thus, it appears unlikely that the Thornburgh plan will be successful in the absence of legislation requiring other utility contributions to pay a portion of the cost of the TMI cleanup.

Apart from the Thornburgh plan, there does not appear to be any realistic alternative that would lead to the prompt solution of the financial problem. Alternatives that could provide the funds needed for the cleanup, such as ratemaking actions to recover most of the cost of cleanup from the GPU ratepayers or actions to greatly increase Federal contributions to the cleanup, have been strongly opposed by the governmental entities that must approve such alternatives. In addition, according to the General Accounting Office, the failure to resolve the cleanup funding issue could adversely affect GPU's financial condition to the point where a future insolvency could occur. GAO has found that a GPU insolvency would create new uncertainties, would likely result in a long and protracted bankruptcy proceeding, would not assure a resolution of the cleanup issue, and would likely result in added costs to ratepayers of the GPU companies and of all other electric utilities.

Given (1) the risk to public and worker health and safety from a substantial delay in proceeding with cleanup, (2) the need for a prompt solution to the financial problem in order to proceed with the remaining cleanup work, (3) the lack of a realistic alternative to the Thornburgh plan to provide a prompt solution to the financial problem, and (4) the drawbacks of insolvency that could result from the lack of a solution to the financial problem, I would support legislation to require other utilities owning nuclear powerplants to contribute a portion of the costs of the TMI cleanup.

QUESTION 9.

The Atomic Energy Act requires the NRC to report to Congress by August 1, 1983, with its views on whether the Price-Anderson Act should be continued or modified. Would you give us your views on the Price-Anderson Act?

ANSWER

I believe that the Price-Anderson system, as presently constituted, provides a sound program for providing financial compensation for public liability claims in the event of a nuclear accident. That program provides an assured source of funds to pay public liability claims and a set of expedited procedures to assure the prompt payment of those claims. I believe that such a system is needed to assure prompt compensation to the public in the event of a serious nuclear accident. Changes to the Price-Anderson Act in 1975 that will result in the phase-out of government indemnity liability and in the increase in total funds available to pay public liability claims were improvements in the system.

As the Commission prepares its report to the Congress on whether the Act should be continued or modified, I believe it should consider among other things the need for changes to the present limitation on liability under the Act, changes to the waiver of defenses provisions under the Act, and possible expansion of the Price-Anderson system to cover facilities other than nuclear powerplants, such as nuclear waste storage and disposal facilities.

QUESTION 10.

Under current law, the NRC is charged with the responsibility for reviewing and approving applications to export certain nuclear fuel and materials. Should this function, in your judgment, be retained by the NRC?

ANSWER

I believe that I should obtain more direct experience with, and understanding of, NRC's export licensing functions before reaching a final judgment on whether these responsibilities should be retained by the agency. In particular, I would want to determine whether the export licensing functions require substantial commitments of time by the Commissioners that detract from their ability to become more directly involved in the domestic power reactor licensing process. The Commission has been sharply divided on this question in the past, with some members arguing that export licensing is very time-consuming and distracts Commission attention away from domestic safety responsibilities, and with other members of the Commission taking the opposite view. I would also want to evaluate the extent to which export licensing determinations turn upon technical evaluations of safeguards, physical security, and other requirements -- matters within NRC's capabilities to evaluate -- and the extent to which these determinations turn upon foreign policy considerations such as the reliability of assurances received from other nations -- matters on which other agencies are more capable than NRC. Finally, I would want to evaluate alternatives to transferring all of NRC's export licensing functions or retaining them in their present form. Other alternatives, such as retaining an NRC advisory or concurrence role on technical safeguards matters but transferring the authority to make licensing determinations, might have advantages in reducing the export licensing workload of the Commission while still making available the technical expertise of the agency. Of course, any changes to the Commission's export licensing responsibility must be adopted by the Congress, and unless that occurs, I will work to carry out that responsibility to the best of my ability.

QUESTION 11.

What do you view as the appropriate role of the NRC in an emergency at a nuclear power reactor, and how does the proposed nuclear data link system fit into this role?

ANSWER

The Commission has the responsibility to ensure in an emergency, as at other times, that a nuclear power reactor is operated so as to provide adequate protection to the public health and safety and the environment. At a minimum, I believe that the NRC should serve as an advisor, along with other experts such as the reactor manufacturer, to the utility operators on operational decisions during an emergency. Because the NRC staff are not licensed operators and are not directly familiar with the operating characteristics of each individual plant, and because any NRC direction regarding plant operation during an emergency might subject the Federal government to financial liability, I believe that any agency action in an emergency that goes beyond an advisory role should be strictly limited and carefully defined in advance. I am not convinced that the NRC has sufficiently defined the conditions under which it would go beyond an advisory role on plant operations during an emergency, and I believe that this matter deserves further attention. During an emergency, the Commission must also serve as an advisor to State and local officials with responsibility for ordering protective actions for the public.

An essential element in the Commission's ability to carry out these responsibilities is accurate and timely information on plant operating conditions and on radiation releases from the plant. The Three Mile Island accident demonstrated with great clarity that accurate and timely information cannot be obtained during an emergency from a system that relies on people to take instrument readings and then to pass those readings along by word of mouth along a chain of people until they reach those with authority to carry out the NRC responsibility. Although NRC has done much to improve its emergency response capability, it may still be hours before a team of NRC personnel can reach the site of an emergency, and during the interim, information can still only be obtained by means of a direct telephone line.

A nuclear data link system, such as that proposed by the Commission, would provide a means of instantaneously and accurately providing key plant operating parameters and radiation release readings during the critical, early hours of an emergency. This information could be provided not only to NRC, but to other experts such as the reactor manufacturer and national laboratories, and to State emergency preparedness officials. The information should assist in providing accurate and timely advice to the utility operators and to the State officials with authority to order protective action.

QUESTION 12.

The Environmental Protection Agency has the responsibility, under current law, for setting general environmental standards for certain regulatory programs under the jurisdiction of the NRC. Should this responsibility continue to be an EPA function? If so, are there steps that can be taken to ensure that the relationship of the EPA standards to the NRC regulatory programs is an effective one?

ANSWER

I believe that EPA should retain these responsibilities for setting general environmental standards, but I believe that there is a need for much better coordination between the two agencies to ensure that the EPA standards, which are intended to serve as the foundation for NRC's detailed, licensing requirements, are available when needed to provide the necessary guidance to NRC. In the past, the failure by EPA to carry out its general environmental standards-setting responsibilities has resulted in NRC action to establish detailed, site-specific requirements in the absence of EPA's guidance on the overall level of protection that is needed. The uranium mill tailings disposal area is an example. This lack of coordination can create the potential for shifting regulatory requirements and disruptions for licensees once EPA issues its standards. This is a potential problem as well in the areas of nuclear waste disposal and nuclear facility decommissioning standards.

QUESTIONS SUBMITTED FOR THE RECORD
BY SENATOR GARY HART

Question 1. Should the NRC retain its authority to license nuclear exports? If not, why not?

Answer

I believe that I should obtain more direct experience with, and understanding of, NRC's export licensing functions before reaching a final judgment on whether these responsibilities should be retained by the agency. In particular, I would want to determine whether the export licensing functions require substantial commitments of time by the Commissioners that detract from their ability to become more directly involved in the domestic power reactor licensing process. The Commission has been sharply divided on this question in the past, with some members arguing that export licensing is very time-consuming and distracts Commission attention away from domestic safety responsibilities, and with other members of the Commission taking the opposite view. I would also want to evaluate the extent to which export licensing determinations turn upon technical evaluations of safeguards, physical security, and other requirements -- matters within NRC's capabilities to evaluate -- and the extent to which these determinations turn upon foreign policy considerations such as the reliability of assurances received from other nations -- matters on which other agencies are more capable than NRC. Finally, I would want to evaluate alternatives to transferring all of NRC's export licensing functions or retaining them in their present form. Other alternatives, such as retaining an NRC advisory or concurrence role on technical safeguards matters but transferring the authority to make licensing determinations, might have advantages in reducing the export licensing workload of the Commission while still making available the technical expertise of the agency. Of course, any changes to the Commission's export licensing responsibility must be adopted by the Congress, and unless that occurs, I will work to carry out that responsibility to the best of my ability.

Question 2.

Is the burden upon the Commission from its nuclear export licensing responsibilities sufficient to justify a reduction in authority? What, if any, increased proliferation risks will result? Please explain.

Answer

The extent to which the Commission's nuclear export licensing responsibilities impose a burden on the Commissioners that limits their ability to become more involved in domestic safety and licensing matters is a key factor, in any view, in deciding whether the Commission's export licensing responsibilities should be retained or transferred. In the past, the Commissioners have differed sharply on this question. I need some direct experience with the operation of the export licensing process to reach my own judgment on this issue.

The Nuclear Non-Proliferation Act of 1978 requires that the NRC make a number of specific findings in order to issue a nuclear export license. If the requirement for these specific findings is retained, and if NRC's export licensing functions are transferred to an agency with the technical capabilities needed to make these findings, I do not see major proliferation risks resulting from the transfer of NRC's export licensing responsibilities, should the Congress decide that such a transfer is appropriate.

Question 3.

Does the NRC currently have the authority to consider the adequacy of safeguards in its export licensing decisions? If not, should it?

Answer

I am not as familiar with NRC's export licensing authority as with other areas of the Commission's activities. Nevertheless, based upon my present understanding of this area, I believe that the Commission is not required, in making its export licensing decisions, to make a specific determination respecting the adequacy of safeguards. Instead, the Nuclear Non-Proliferation Act requires only that NRC independently determine that International Atomic Energy Agency safeguards will be applied to the exported material, facility or technology. However, it appears to me that the Commission has the authority, as part of its responsibility to ensure the protection of the common defense and security, to take into account information on the adequacy of IAEA safeguards as one of many factors to be considered in making the common defense and security finding. Therefore, I believe the agency has the authority to consider such information even though the statute does not require an agency finding on safeguards adequacy.

Question 4.

What role do you believe nuclear energy should play in this country's overall energy future? Should the NRC foster further development of nuclear energy?

Answer

I believe that nuclear energy can make a significant contribution to meeting the energy needs of this country, and that this can be accomplished in a manner that will provide adequate protection to the public health and safety, the environment, and the common defense and security. I believe that nuclear energy should play a part in this country's energy mix, along with other energy sources such as coal, solar energy and geothermal energy. I also believe that we should take advantage of energy conservation to the extent possible.

The promotion of nuclear energy is not part of the NRC's role. Rather, the role of the NRC is to assure that the uses of nuclear energy are carried out in a manner that will assure adequate protection of the public health and safety, the common defense and security, and the environment.

Question 5.

What do you view as the biggest problems now confronting the NRC? What specific steps would you take or recommend to solve these problems?

Answer

I believe there is a continuing need to build public confidence in the Commission and its regulatory program. The Commission's efforts to address the problems identified as a result of the Three Mile Island accident, and its vigorous enforcement program in recent years, have been effective in restoring public confidence, and I believe these activities should be continued, and work on the TMI-related issues should be completed as soon as possible. I also believe the Commission should do everything possible to assure that it reaches sound safety, environmental and security judgments in an open and objective manner.

A second problem is the need to address the unresolved safety issues that have been identified. Although the NRC has a program for resolving these issues, I would favor accelerating the present schedule for completing this work.

A third problem is the need to improve the nuclear powerplant licensing process. The NRC already has a Task Force charged with making recommendations in this area, and I would urge prompt Commission action to identify and put into effect appropriate reforms.

A fourth problem is the need to establish the necessary regulatory requirements for the nuclear waste disposal program. The NRC has already done considerable work on the licensing procedures that would apply to an application to build a nuclear waste repository. NRC has also proposed technical criteria that would apply to such an application. I believe that NRC should move forward on these items, coordinating with EPA in the exercise of that agency's environmental standards-setting responsibilities.

A fifth problem is the need to improve the quality of construction for nuclear powerplants. Recent problems at a number of plant construction sites indicate that this is an area in need of prompt attention by both the NRC and the industry. A number of alternative concepts for improving construction quality assurance and quality control were identified in an amendment adopted recently by the Senate in action on the NRC authorization bill. I believe the Commission should undertake a study of these concepts and put into effect those concepts that would be useful in improving nuclear powerplant construction quality.

Question 6.

What major problems exist with respect to public acceptance of nuclear power as a primary energy source? What steps should the NRC take to resolve those problems, if any?

Answer

In my view, the three greatest problems with respect to public acceptance of nuclear power as a primary energy source are the lack of a solution to the nuclear waste disposal problem, the lack of a resolution for a number of outstanding safety problems, including some issues identified as a result of the Three Mile Island accident, and growing concerns over the cost of nuclear power.

The NRC should assure that its regulatory program for licensing nuclear waste storage and disposal facilities is established in a timely manner. In addition, the Commission should accelerate its program to complete work on the unresolved safety issues and the remaining post-TMI safety issues as soon as possible. The cost of nuclear power is not a matter directly considered by the Commission. Nevertheless, the NRC should work to eliminate any unnecessary delays in its licensing activities.

Question 7.

Do you believe that the NRC now has sufficient staff to carry out its statutory mandates? If not, in which program or offices should more staff be added? Which programs or offices, if any, should be cut back or reduced in priority? In particular, should any staff be diverted from the implementation of the Three Mile Island action plan?

Answer

I believe that the NRC does have sufficient staff to carry out its responsibilities. Based upon my present understanding of the agency's operations, I do not have recommendations for augmenting or reducing the staff of NRC's programs or offices. On the implementation of the Three Mile Island action plan, the action plan contains a large number of long-term as well as short-term items, with widely differing safety significance. Any decision to defer an action plan item should be evaluated on the basis of its safety significance, its short-term versus long-term importance, the resources needed to complete the action plan items and the availability of those resources, and the safety significance and near-term importance of the competing NRC activity.

Question 8.

How would you characterize NRC's current relationship with the nuclear industry? With utilities that operate nuclear powerplants? With the public in general? With nuclear critics and intervenor groups? For each relationship, what changes would you seek?

Answer

I would characterize NRC's current relationship with the nuclear industry and with utilities that operate nuclear powerplants as an arms-length relationship between an independent regulator and the industry that it is charged by law with regulating. Consistent with the Commission's regulatory role and responsibilities, I believe that the NRC can work cooperatively with the nuclear industry and the utilities toward a common objective -- ensuring adequate safety. In that regard, I would seek continuation and expansion of the present efforts on nuclear powerplant operating experience and nuclear powerplant personnel training and qualifications that were begun after the Three Mile Island accident. I would also pursue cooperative efforts to improve the quality of nuclear powerplant construction.

I would characterize the relationship between NRC and the public as that of the independent regulator to those it is intended to serve. I believe that NRC must work to continue to restore public confidence in its ability to safely regulate nuclear activities. I would not seek major changes here, but rather, I would pursue a continuation of open and objective decision-making, a vigorous enforcement policy, and prompt attention to outstanding safety matters.

I would characterize the relationship between NRC and nuclear critics and intervenor groups as somewhere between the relationships of the agency to the industry and to the general public. Because the NRC staff is a party to all licensing proceedings, the agency frequently finds itself in an adversarial relationship with intervenor groups and nuclear critics. At the same time, the NRC staff frequently assists these groups in their efforts to participate in the NRC licensing process. As with the general public, I would seek to build the confidence of these organizations, to the extent possible, in NRC's regulatory program by pursuing open and objective decision-making, a vigorous enforcement policy, and prompt attention to outstanding safety matters.

Question 9.

What role, if any, should the NRC play in assuring that the cleanup of TMI-2 proceeds on schedule? How should the Commission be involved in the decisions regarding who should pay for the cleanup?

Answer

I believe the Commission has the responsibility to establish its regulatory programs and requirements for the TMI cleanup in a timely manner, and to make the necessary regulatory decisions as the cleanup progresses on a timely basis, consistent with its responsibility to protect the public health and safety and the environment.

I do not believe the Commission should be directly involved in the decisions regarding who should pay for the cleanup. That is a matter for the involved parties -- the States of Pennsylvania and New Jersey, their utility commissions, the GPU companies and other utilities, the Administration, the Congress, and perhaps ultimately, the courts -- to decide. However, I do believe that it is appropriate for the Commission to advise the involved parties and the public of the health and safety risks associated with the continued failure to solve the financial problems that are now preventing progress toward completion of the cleanup, and the need, based upon those risks, to find a solution to the financial problem.

Question 10.

Do you believe that reactor licensing has been unnecessarily delayed? If so, what have been the principal causes of such delay? In assessing licensing delays, should the Commission utilize the applicant's estimated construction completion date or the NRC staff's estimate?

Answer

Based upon NRC's testimony before this Committee last year, I believe there are instances in which reactor licensing has been unnecessarily delayed. Among the factors cited by the NRC for these delays were: lack of attention to scheduling by licensing boards; a lack of discipline by licensing boards in adhering to prehearing and hearing schedules; the assignment of the same licensing board members to cases with competing hearing schedules; and the need for additional staff resources to complete NRC safety reviews of applications. I am not fully familiar with the capability of the NRC staff to estimate construction completion dates, but I suspect that it may be difficult for NRC to estimate accurately the utility's construction completion dates. Nevertheless, to the extent that the NRC staff can identify overly optimistic utility projections of construction completion dates, I believe this information should be considered in assessing future licensing delays.

Question 11.

What lessons should the NRC, and the Congress, have learned from the licensing "delay" controversy of 1981? Do you believe that the NRC's licensing status reports to Congress painted a complete and accurate picture of the powerplant licensing situation? If not, what improvements should be made?

Answer

The operating license delays that were projected at the beginning of 1981 have now been eliminated due to increased NRC staff efforts in preparing plant safety reviews, the administrative changes to the hearing process adopted by the Commission, and revised utility estimates for construction completion dates. Of these three factors, the revised utility construction completion dates appear to be the most significant factor. Thus, in hindsight, it appears that the NRC licensing status reports, based upon overly optimistic utility construction completion projections, may not have presented an entirely accurate picture of the licensing situation. This experience cautions against too heavy reliance on the utility construction estimates. In the future, it may be wise to identify overly optimistic utility construction projections and to give some consideration to the uncertainties involved in making these projections. Despite these weaknesses, the review of the operating license situation last year disclosed a number of aspects of the present licensing process that deserve further consideration. These include not only the lack of attention to hearing schedules, but also more fundamental questions regarding the role of licensing hearings, the role of the licensing and appeal boards themselves, and the appropriateness of the NRC's present hearing requirements and hearing procedures.

Question 12.

Do you agree with the Kemeny Commission that NRC's "primary focus is on licensing and insufficient attention has been paid to the ongoing process of assuring safety?" If so, what steps would you take to redress the balance between licensing and safety?

Answer

In general, I agree with the finding of the Kemeny Commission that, after the Three Mile Island accident, there was a need to shift attention to assuring safety for then-operating nuclear powerplants. The Commission did this, devoting virtually all of its available resources for about two years to evaluating the problems identified by the accident and to developing new regulatory requirements for the near term and a comprehensive action plan of all relevant items for long-term consideration. This focus on operating problems after the Three Mile Island accident was the reason given last year by the Commission for the operating license delay situation.

Now that the Commission has undertaken the near-term post-TMI changes, and has developed a detailed plan for resolving the longer-term TMI issues, the NRC has resumed its licensing activities and has now eliminated the licensing delays that were projected last year. In general, I believe the Commission's present allocation of resources to licensing and to assuring the safety of operating plants represents an appropriate balance, although I would like to see the resolution of the unresolved safety issues be accelerated.

Question 13.

To what extent should cost be considered in the approval or ranking of safety requirements promulgated by the Commission? Do you believe that the priority ranking system for the TMI action plan, in which only 100 of the 210 points were based on safety significance, reflects a proper balance of the relevant decisionmaking criteria?

Answer

I believe that it may be appropriate to consider, as one factor in establishing priorities for completing safety regulation tasks, the cost to the agency and the industry in completing the regulatory task. However, I believe that safety significance should be the predominant and controlling factor. In establishing priorities for the TMI action plan items, the Commission appropriately gave the greatest weight to safety significance, but also took into consideration the NRC and industry resources needed to accomplish the task, the present status of the task, and the timing of improvements. The stated objective of this ranking system was to give the highest priority to the areas of greatest potential for improved safety in the shortest time at the lowest cost. I believe this represents an appropriate balance among the various criteria.

Question 14.

Do you agree with the NRC's own Special Inquiry Group that "the promotion of effective citizen participation is a necessary goal of the regulatory system, appropriately demanded by the public?" If so, what steps would you take to promote effective citizen participation in NRC's licensing, rule-making and enforcement activities?

Answer

Yes. I believe that the opportunities for public participation in NRC proceedings can and should be improved. One means for improving public participation would be to involve the public in the process earlier than now takes place -- by permitting public observations, comment and participation during the period of NRC staff review of a license application. Another means for improving public participation would be to resolve issues on a generic basis wherever possible, thereby minimizing the need to intervene in a number of individual licensing proceedings to raise the same issue repeatedly. A third means may be the use of hybrid hearing procedures, such as those contained in the nuclear waste bill recently passed by the Senate (S. 1662), which provide a more flexible legislative-type hearing followed by an adjudicatory hearing on selected issues. I believe that these and other options for improving public participation should be considered by the Commission as part of its licensing reform effort.

Question 15. Do you believe that intervenors make any contribution to the powerplant licensing process? Do you believe that adjudicatory hearings make any contribution to the licensing process?

Answer

Yes. I believe that some intervenors have made valuable contributions to nuclear powerplant licensing proceedings. Yes. I believe that adjudicatory hearings are particularly useful in resolving those material disputes of fact between the parties to a licensing proceeding that are important to the Commission's decision in the case and that require for their resolution adjudicatory procedures such as the cross-examination of witnesses.

Question 16. Do you believe that the NRC staff should act as a formal party in licensing proceedings? If not, what role should the staff play?

Answer

I believe this is an issue that should be studied carefully as part of the Commission's licensing reform effort. Under NRC's ex parte rules, one consequence of the NRC staff's participation as a formal party in licensing proceedings is to preclude the Commission from consulting with the NRC staff on technical issues related to the proceeding even though the NRC staff is probably the best source of technical advice to the Commission on these issues. I do not know what other roles the NRC staff might play in the proceeding, but I believe that alternatives to the formal role as a party to the proceeding should be identified and evaluated.

Question 17. Is any form of intervenor funding appropriate in licensing proceedings? In rulemaking proceedings? Should the NRC establish an Office of Public Counsel to assist the public in raising serious questions about the safety of proposed or operating powerplants?

Answer

I do not believe that intervenor funding is appropriate in NRC licensing or rulemaking proceedings. I believe that private parties advancing their own interests should pay the costs of their participation in these proceedings. I do not believe that NRC should establish an Office of Public Counsel to assist the public in raising safety questions in licensing proceedings. It is the responsibility of the NRC and its staff to protect the public health and safety, and the agency should pursue valid safety concerns that are brought to the agency's attention by members of the public. In addition, the NRC staff already assists on an informal basis public participants in licensing proceedings who seek to raise serious safety issues. Changes to the role of the NRC staff in licensing proceedings might permit greater assistance by the staff to other participants in the proceeding.

Question 18. In what circumstances, if any, should the Licensing and Appeal Boards be permitted to raise issues sua sponte in licensing proceedings?

Answer

The role of the licensing and appeal boards, and in particular, the authority of those boards to raise and consider issues not in dispute between the parties to the proceeding, are matters that should be considered carefully as part of the Commission's ongoing licensing reform effort. One alternative to this sua sponte authority may be to have the licensing or appeal board refer the issue directly to the Commission, which could then decide how the issue is to be resolved. I believe it would be helpful to examine the sua sponte authority of the boards, and alternatives for addressing these issues, as part of the NRC's licensing reform effort before reaching a firm judgment on this matter.

Question 19.

Please provide your views on the Commission's recent administrative changes to the hearing and licensing processes? Would you support any additional changes? Please discuss these additional changes, if any.

Answer

I am in agreement with the changes to the hearing and licensing processes that have been adopted by the Commission. These changes provide advisory schedules for licensing hearings, reduce schedule conflicts in assigning board members to licensing proceedings, streamline prehearing procedures, and limit the consideration of financial qualification and need for power issues at certain stages of these proceedings. I believe that additional administrative and legislative changes to the hearing and licensing processes should be considered by the Commission as part of its licensing reform effort. I would use as criteria for evaluating these changes their ability to ensure sound safety judgments, to provide a fair and meaningful opportunity for public participation, to improve the predictability and stability of the licensing process, and to improve the efficiency of the process. I would support consideration of a hybrid hearing procedure; greater flexibility in the licensing process to permit the expanded use of standardized designs; the use of a combined construction permit and operating license; the elimination of mandatory hearings in uncontested construction permit hearings; a standard for making backfitting determinations for operating plants and plants under construction, and changes to the formal role of the NRC staff in licensing proceedings.

Question 20.

Which major recommendations of the Kemeny Commission, if any, do you disagree with? Which deserve the highest priority for implementation?

Answer

The only recommendation of the Kemeny Commission that I disagree with is the recommendation to replace the five-member Commission with a single administrator. I believe the diversity of views afforded by the five-member commission structure is most appropriate given the nature of nuclear regulatory issues, and should be retained. At the same time, the authority given to the Chairman by the NRC reorganization plan should permit more effective leadership and centralized management of the agency's day-to-day operations, which I believe was the objective of the Kemeny Commission's recommendation.

I believe the highest priority should be given to the Kemeny Commission's recommendations regarding human factors engineering, the training of operating personnel, the use of plant operating procedures, and the need for more effective evaluation and use of nuclear powerplant operating experience.

Question 21. Which major recommendations of the Rogovin report, if any, do you disagree with? Which deserve the highest priority for implementation?

Answer

For the reasons given in response to question 20, the only major recommendation of the Rogovin report that I disagree with is the recommendation to replace the Commission with a single administrator. I am also not convinced of the need for an independent reactor safety board within the NRC comparable to the National Transportation Safety Board. I believe the functions of such a board, as recommended in the Rogovin report, can be accomplished within the existing structure of the agency. Nor am I convinced of the need for a national operating company or consortium to operate all nuclear powerplants in the United States. I agree that there is the need to improve the operating capabilities of a number of the utilities now building or operating nuclear powerplants. But I am not yet convinced of the feasibility of, or need for, a single operating company.

I believe that the highest priority should be given to the recommendations in the Rogovin report for strengthening the onsite technical capability of the plant operating personnel, including improved operator training; for better application of human factors engineering in plant design; and for improvement in the systematic evaluation of plant operating experience.

Question 22. Would you ever vote to deny an operating license to a completed powerplant? If so, under what circumstances?

Answer

Yes. I would vote to deny an operating license in any case in which I could not make the findings regarding adequate protection to the public health and safety, the environment, and the common defense and security that are required by law for the issuance of an operating license.

Question 23.

What criteria should the NRC employ in deciding whether to apply newly-issued safety regulations to previously licensed plants? To plants under construction, but not completed?

Answer

As part of its ongoing licensing reform effort, I believe the Commission should attempt to define more clearly a set of criteria that will be used in determining whether to apply new safety requirements to operating plants and plants under construction. Such criteria would provide for a more orderly and uniform consideration of these issues. One possible criterion is whether the new safety requirement will provide a substantial, additional margin of safety protection sufficient to justify the cost of its application. Another is whether the new safety requirement is needed to correct an identified problem such that the plant no longer provides an adequate level of safety protection. If quantitative safety goals are developed and prove reliable, these also might serve as a criterion for making these determinations. I believe that a final judgment on what criteria should be applied to these determinations should await more detailed study of the various alternatives and their implications.

Question 24.

What level of risk would an unresolved safety issue have to pose before you would, because of that issue, order an operating plant to be shut down? Can the previous question be answered in numerical terms? If not, does the NRC's proposed safety goal have any meaning for or application to operating reactors?

Answer

I believe the unresolved safety issue must be evaluated to determine whether the safety significance is sufficiently great to prohibit the continued operation of the plant or licensing actions during the interim period until the issue can be resolved. I am not yet convinced that this issue can be resolved on the basis of some quantitative standard, and I look forward to the public comments on this aspect of NRC's proposed safety goals before reaching a final decision on the feasibility of numerical standards for this purpose.

Question 25.

Do you believe that the goal of nuclear safety regulation should be to eliminate the possibility of a major nuclear accident or only to reduce that possibility?

If the latter, what probability of an accident do you believe the public will or should accept?

Answer

I generally agree with the qualitative goals contained in the Commission's proposed safety goal. Those goals are: that individual members of the public should be provided a level of protection from the consequences of nuclear powerplant accidents such that no individual bears a significant additional risk to life and health; and that societal risks to life and health from nuclear powerplant accidents should be as low as reasonably achievable and should be comparable to or less than the risks of generating electricity by viable competing technologies. Although these goals would not require the elimination of any possibility of an accident, no matter how remote, they would appear to provide a policy directive to continue to reduce the risk and likelihood of serious accidents.

I am more skeptical of the ability to quantify the appropriate level of risk. The Commission's recently-published safety goal proposal does include some quantitative standards, and I look forward with great interest to public comments on the feasibility and appropriateness of these numerical standards.

Question 26.

Should the NRC's regulations assure that nuclear powerplants licensed for exports to other countries meet the same or equivalent safety standards as those licensed for use in this country? Should the NRC perform a safety evaluation of those designs to inform the purchasing country of any unresolved safety issues associated with the plant's particular design?

Answer

I do not believe so. It is the responsibility of the recipient country to license and regulate the construction and operation of nuclear powerplants to be built within that country. I believe the NRC should provide technical assistance to the regulatory authorities within the recipient country when requested, and to the extent permitted by the available resources beyond those needed by the NRC to carry out its own statutory responsibilities. I also believe that NRC should continue its participation in international efforts to set appropriate safety standards for use by other participating countries in the siting and licensing of nuclear powerplants.

Question 27. Which unresolved safety issues deserve highest priority for resolution? By what deadline should the Commission attempt to resolve these high priority issues?

Answer

I am not familiar enough with the relative significance of the different unresolved safety issues to make a judgment on the appropriate ranking of each issue. However, I believe that the anticipated transient without scram, the hydrogen control, the pressurized thermal shock, and the steam generator tube integrity issues are particularly significant. NRC recently indicated that work on all presently-identified unresolved safety issues will be completed no later than 1984. I would like to see this schedule accelerated to the extent possible.

Question 28. Which of the TMI action plan items that have not been resolved deserve highest priority? By what deadline should the Commission attempt to resolve these items?

Answer

I am not sufficiently familiar with the safety significance and relevant merits of the uncompleted TMI action plan items to reach a judgment on those items that should receive the highest priority. The TMI action plan included a large number of items, many of which were of a more long-term nature. Work on many of these remains to be completed. I would like to see this work accelerated to the extent possible, although I do not have a specific deadline in mind at the present time.

Question 29. With respect to both the unresolved safety issues and the TMI action plan items, how should the Commission define when an item has been "unresolved?"

Answer

I believe that the Commission should consider an unresolved safety issue "resolved" when it has obtained a sufficient understanding of the issue to determine whether, and if so, what, regulatory actions are needed to assure an adequate level of protection for the plants subject to the problem over the operating life of the plant. For the action plan items, I believe the plan defines with reasonable specificity the actions that are needed to satisfy each element of the plan.

Question 30. How strict and active an inspection and enforcement policy should the Commission pursue?

Which areas of plant construction and operation deserve special attention?

Answer

I believe that the Commission should pursue a vigorous and aggressive inspection and enforcement policy. In particular, I believe that construction quality assurance and quality control for nuclear powerplants deserve special attention based upon the recent problems in this area at a number of construction sites.

Question 31. Should nuclear powerplants be authorized to begin construction on the basis of conceptual designs?

If not, how complete must the plant's designs be before the construction permit is issued?

Answer

The Commission's regulations now state that an applicant should be required to submit a description of the proposed design for the plant that is sufficiently complete to: (1) identify the major safety features and components of the plant and the principal architectural and engineering features of the design; (2) identify other technical or design information needed to complete NRC's safety analysis; (3) identify any safety features or components requiring further research and development work and to specify the work needed in that regard; and (4) permit the Commission to determine that there is reasonable assurance that any outstanding safety questions will be resolved satisfactorily before the completion of construction and that the proposed facility can be constructed and operated at the proposed location without undue risk to the public health and safety. I believe that these regulations now appropriately define a minimum level of design information to be included in a construction permit application. However, I also believe that it would be helpful for the applicant, NRC and public participants to obtain more complete design information as early as possible in the licensing process. Therefore, I believe that the Commission should consider, as part of its ongoing licensing reform effort, changes that would encourage the early submission of more complete design information.

Question 32.

Please discuss all reforms in the licensing process that you would support? Should these reforms occur legislatively or administratively?

Answer

The Commission has established a Regulatory Reform Task Force with responsibility for recommending to the Commission legislative and administrative reforms to the nuclear powerplant licensing process. I would expect to review carefully the recommendations of that Task Force before reaching any final judgments on various reform proposals. However, in general, I believe that a number of changes to the licensing process should be considered by the Commission from the standpoint of their ability to improve the soundness of the Commission's licensing decisions, the opportunity for public participation, and the stability, predictability and efficiency of the licensing process. These include: greater flexibility in the licensing process to permit the expanded use of standardized plant designs; the use of a combined construction permit and operating license; the elimination of mandatory hearings in uncontested construction permit proceedings; changes to NRC's hearing procedures similar to the new hearing procedures contained in the Senate-passed nuclear waste bill (S. 1662) for utility applications to expand at-reactor spent fuel storage; provisions to assure greater uniformity and consistency in NRC decisions on whether to impose new requirements on existing licensees (backfitting); changes in the authority of NRC's licensing and appeal boards to consider issues that have not been raised by parties to the proceeding (the sua sponte authority); and changes to the present role of the NRC staff in individual licensing proceedings and the present restrictions on the Commission's ability to consult with the NRC staff on issues in individual licensing proceedings (the ex parte restrictions).

It appears to me, at least at this point, that legislation would be necessary or helpful in the case of proposed changes to NRC's hearing procedures, proposed changes to make discretionary a mandatory hearing requirement, and at least some of the possible proposed changes to expand the use of standardized plant designs.

Question 33. Should NRC encourage greater standardization of reactor designs and components? If so, how?

Answer

Yes. I believe that the Commission should consider, as part of its ongoing licensing reform efforts, changes to permit the issuance of separate standardized design and early site approvals and to permit the issuance of combined construction permit and operating licenses for designs that are sufficiently complete to permit the issuance of a combined permit and license. Although at least some steps can be taken administratively by the NRC in this area, I believe that legislation may be helpful or necessary for at least some of these changes.

Question 34. In this context, do you agree with former Commissioner Bradford that "Licensing proceedings for early site review and standard designs should include financial and/or technical assistance to qualified intervenors seeking to raise genuine safety issues in good faith" because "paying someone a small amount to be skeptical now is likely to avoid much greater risks in the future?"

Answer

I do not support intervenor funding that would provide funds for private parties seeking to advance their own interests in NRC licensing proceedings. I would be prepared to consider the appropriateness of NRC technical assistance to address significant safety issues on a case-by-case basis.

Question 35. What is your political affiliation? Have you ever participated in any party activities (e.g. state convention or caucuses, political campaigns)?

Answer

I am an independent. I have never been affiliated with any political party. I have never participated in any party activities, including conventions, caucuses or campaigns.

QUESTION 36.

Please provide your views on current quality assurance/quality control activities and discuss any reforms you would like to see.

ANSWER

Recent problems regarding the construction of nuclear powerplants at several sites indicate the need for prompt attention by both NRC and the industry to nuclear powerplant construction quality assurance and quality control. A number of alternative concepts for improving the quality of nuclear powerplant construction were included in an amendment recently adopted by the Senate in action on the NRC Authorization bill. I believe the NRC should consider studying and applying one or more of these concepts in an effort to upgrade construction quality assurance and quality control.

QUESTION 37.

What criteria will guide you in your decisions on assessing fines against licensees?

ANSWER

I believe the criteria in NRC's enforcement policy are appropriate for determining the level of fines to be imposed in individual enforcement cases. These include the severity and safety significance of the violation; whether the licensee identified the violation and promptly reported it to NRC; whether the licensee took prompt corrective action, including action to prevent recurrence of the violation; the past enforcement history of the licensee; whether the licensee had prior knowledge of the problem that lead to the violation; and whether the violation is a single or multiple occurrence.

QUESTION 38.

Have you done work for any non-governmental organizations in the nuclear field? If so, please describe.

ANSWER

No.

QUESTION 39.

Do you agree that the public expects the NRC to act as an impartial watchdog, to protect health and safety and the environment?

ANSWER

Yes, I do.

QUESTION 40.

Are you familiar with Chairman Palladino's statements that, as soon as a new Commissioner is confirmed, he intends to have the Commission reconsider its decision last March to deny DOE's request for an exemption to allow site preparation work to begin for the Clinch River Breeder Reactor?

ANSWER

Yes.

QUESTION 41.

Do you agree that if the Commission decided, within a few days after the arrival of a new Commissioner, to reverse its March decision denying DOE's request, such a decision might raise serious public doubts about the impartiality of the Commission and its ability to view public health and safety issues without partisanship?

ANSWER

No. I do not believe that any member of the Commission reaches his decision on the basis of partisanship. I believe that each member of the Commission would reach his decision on this or any other issue objectively and impartially, and on the basis of the factual record before the Commission. That would certainly be my intention if I am confirmed and called upon to vote on this matter. I do not believe that a Commission action to reverse its March decision should be viewed as partisan, just as I do not believe that the Commission's original March decision or any other decision of the Commission should be viewed as such.

QUESTION 42. To preserve the integrity of the Commission (or at least the public's perception of its objectivity), might it not be best if this kind of sudden reversal of a Commission decision, as a result of a change in the political composition of the Commission, did not occur?

ANSWER

For the reasons given in my answer to the preceding question, I do not believe that any decision by the Commission to reverse the Commission's March decision, should such action occur, should be viewed as a partisan decision. I believe it is the responsibility of each Commissioner, in this and in every other decision that may come before the Commission, to reach his decision objectively, based upon a full consideration of the facts in the record. If confirmed, that is what I would do.

QUESTION 43. Have you discussed this issue with the Chairman or other Commissioners?

ANSWER

No.

QUESTION 44. Will you recommend to the Chairman that he not bring this issue before the Commission for reconsideration? Will you vote against a motion to reconsider the March decision?

ANSWER

No. I believe that every member of the Commission should have the opportunity to ask the Commission to reconsider an issue as long as the law permits such reconsideration.

QUESTION 45.

If the Commission decides to reconsider its decision, do you have any views on the procedures it should follow? Do you think it would be desirable for the Commission to hold a hearing in which all parties could present their positions to a new Commissioner? If not, why not?

ANSWER

An additional hearing in which all parties could present their positions to a new Commissioner might be useful if the new Commissioner, after reviewing the record that served as the basis for the Commission's March decision, determines that the record does not provide the information that he needs to reach an informed and objective decision on the issue. That determination should be made on the basis of a thorough review of the existing record.

QUESTION 46.

Have you reviewed the record on which the Commission based its March decision? Do you believe it is appropriate for a new Commissioner to pass upon an issue if he has not reviewed the entire record and heard the views of all the parties?

ANSWER

I have not reviewed the record that served as the basis for the Commission's March decision. I do not believe it is appropriate for a new Commissioner to act upon an issue such as this until he has reviewed the full record and either has satisfied himself that the record provides a sufficient basis for an informed and objective judgment on the facts or has taken steps to supplement the record with the needed information through additional hearings or other means.

QUESTION 47.

Are there any circumstances in which it would be inappropriate for a new Commissioner to pass upon reconsideration of a Section 50.12 request -- the type DOE originally sought in this case?

ANSWER

I believe it would be inappropriate for a new Commissioner to pass upon this type of reconsideration if he had prejudged the matter, if he had a financial or other conflict of interest in the issue, if he had not reviewed the record, or if he was not satisfied that the record provided a sufficient basis for him to reach an informed and objective decision on the issue.

QUESTION 48.

As I understand it, one of the purposes for building the Clinch River Breeder Reactor was to demonstrate the licensability of breeder reactors generally. If the Commission grants the exemption from some licensing requirements, won't it frustrate this purpose -- i.e. to demonstrate licensability? Please explain.

ANSWER

As a general matter, I believe that exemptions from licensing requirements should be scrutinized carefully, particularly from the standpoint of the impact of the exemption on subsequent licensing determinations. The Commission should consider the impact of this exemption request on the licensability purpose of the Clinch River Breeder Reactor. As I understand it, the licensability purpose of the project was aimed principally at the need to establish health and safety, environmental and common defense and security requirements that would permit licensing determinations for a demonstration-scale breeder reactor project. Given the nature of this purpose, an exemption for limited site-preparation activities might not frustrate the demonstration of licensability. However, this is a matter that should be considered and decided on the basis of the record.

QUESTION 49.

During the course of conversations with the White House or Executive Branch about your possible nomination, did you ever discuss the Clinch River Breeder Reactor? (This is not a question about whether he made any commitments.)

QUESTION 50.

If so, did these discussions touch at all upon the DOE's exemption request?

QUESTION 51.

Please describe the discussions that took place, and their substance.

ANSWER

In the course of conversations with the White House and the Executive Branch about my possible nomination, there was only one brief reference to the Clinch River Breeder Reactor. I was told by one individual that the Administration wished to fill the existing vacancy on the Commission as soon as possible, and that one factor was the desire to resolve the DOE exemption request. I was also told that neither the exemption request, nor any other aspect of the Clinch River Breeder Reactor Project, would be discussed with me. Apart from this one passing reference to Clinch River on their part, I have not had any discussions whatsoever with anyone in the White House or the Executive Branch on the Clinch River Breeder Reactor or the DOE exemption request.

QUESTION 52.

In these discussions, was the DOE's position explained to you? Was the NRC Staff's position explained? Were the positions of the intervenors explained?

ANSWER

No.

QUESTION 53.

Were there any discussions as to how you might vote upon reconsideration of the DOE's exemption request? Were any commitments sought? Were any commitments given?

ANSWER

No.

QUESTIONS SUBMITTED FOR THE RECORDBY SENATOR GEORGE J. MITCHELLQUESTION 1.

What are your general views on the Clinch River Breeder Reactor?

ANSWER

I have not been directly involved with the Clinch River Breeder Reactor project and I do not have strong views for or against the project. In general, I believe that it is useful for the United States to maintain a breeder reactor research and development program, and that one or more demonstration-scale reactors may be important elements in that program. The Commission has determined that the need for, and timing of, the Clinch River project is not a matter for Commission decision, but rather is a matter for the Administration and the Congress. I do not have a view on any of the licensing issues for Clinch River that will come before the Commission in the coming years. I do believe, however, that the project should be subject to NRC licensing, as required by existing law, and that NRC should be given the resources it needs to make the licensing determinations for the project.

QUESTION 2.

During the course of conversations with White House or Executive Branch officials about your possible nomination, did you ever discuss the Clinch River Breeder Reactor?

QUESTION 3.

If so, did these discussions ever center on the Department of Energy's request for an exemption under 10 C.F.R. Section 50.12?

ANSWER

In the course of conversation with the White House and the Executive Branch about my possible nomination, there was only one brief reference to the Clinch River Breeder Reactor. I was told by one individual that the Administration wished to fill the existing vacancy on the Commission as soon as possible, and that one factor was the desire to resolve the DOE exemption request. I was also told that neither the exemption request, nor any other aspect of the Clinch River Breeder Reactor Project, would be discussed with me. Apart from this one passing reference to Clinch River on their part, I have not had any discussions whatsoever with anyone in the White House or the Executive Branch on the Clinch River Breeder Reactor or the DOE exemption request.

QUESTION 4.

Have you ever been asked by any White House officials to make a commitment on the Department of Energy's Section 50.12 request?

ANSWER

No.

QUESTION 5.

If Chairman Palladino follows through in his publicly announced decision to reconsider the vote on the DOE request, would you have any views with respect to the procedures that should be followed by the Commission upon reconsideration?

ANSWER

Yes. I believe that the new Commissioner shall have an opportunity to review thoroughly the existing record to determine whether it provides sufficient information to permit an informed and objective decision on the facts. If I determine that the record is insufficient for me to reach such a decision, I would be prepared to recommend procedures to assure that a sufficient record is compiled.

QUESTION 6.

Would you ask that a new hearing be required so that all parties could present their positions on the DOE request to you in your role as a new Commissioner?

ANSWER

An additional hearing in which all parties could present their positions to a new Commissioner might be useful if the new Commissioner, after reviewing the record that served as the basis for the Commission's March decision, determines that the record does not provide the information that he needs to reach an informed and objective decision on the issue. If confirmed, I would make that determination on the basis of a thorough review of the existing record.

QUESTION 7.

If the Commission reversed itself on the Section 50.12 request within a few days of your arrival as a new Commissioner, wouldn't public concerns about the independence and impartiality of the NRC be exacerbated?

ANSWER

No. I do not believe that any member of the Commission reaches his decision on the basis of partisanship. I believe that each member of the Commission would reach his decision on this or any other issue objectively and impartially, and on the basis of the factual record before the Commission. That would certainly be my intention if I am confirmed and called upon to vote on this matter. I do not believe that a Commission action to reverse its March decision should be viewed as partisan, just as I do not believe that the Commission's original March decision or any other decision of the Commission should be viewed as such.

QUESTION 8.

Can you tell me your views on S. 1606, the Nuclear Property Insurance Act, presently before the Environment Committee?

ANSWER

I believe that legislation, such as that now pending before this Committee (S. 1606), to require other utilities owning nuclear powerplants to pay a portion of the cost of the Three Mile Island cleanup must be evaluated by considering: (1) the risk of the health and safety of the workers at the plant and the public in the vicinity of the plant if cleanup is substantially delayed; (2) the likelihood that such legislation, together with other actions already taken, will permit prompt action on the cleanup; and (3) the likelihood that, in the absence of such legislation, progress on the TMI cleanup will be substantially delayed and even less acceptable alternatives for funding the cleanup will become more likely.

On the first point, the NRC has already noted that substantial delays in the TMI cleanup will increase the risk of accidental radiation exposures to plant workers and to the surrounding public.

On the second point, NRC has noted that the lack of a solution for financing the cost of cleanup is the fundamental restraint delaying progress toward completing the TMI cleanup. Since it became apparent after the Three Mile Island accident that the amount of property insurance coverage for that plant was inadequate to cover the cleanup cost, a number of alternatives for financing the cleanup have been examined. In July 1981, Governor Thornburgh of Pennsylvania proposed a plan to finance the cleanup that incorporated a cost-sharing approach involving several financing alternatives. Under the Thornburgh plan, the cost of cleanup would be shared, with payments by: (1) the Federal Government, through a research and development program (25 percent); (2) the States of Pennsylvania and New Jersey (6 percent total); (3) the General Public Utilities companies to the extent of all remaining property insurance on the plant (12 percent); (4) the GPU ratepayers, beginning after the restart of Unit 1 of the TMI plant (32 percent); and (5) other electric utilities, and nuclear reactor manufacturers and suppliers (25 percent).

Action by the Congress, in funding a three-year research and development program related to the cleanup, and ratemaking actions taken by the Pennsylvania PUC and pending before the New Jersey EPU, would appear to put in place two of the sources of funding identified in the Thornburgh plan. Given the actions that have already been taken by the Federal Government and by State officials, it appears that enactment of legislation to require other electric utility contributions to the cleanup would result in a solution to the financial problem, thereby permitting cleanup to proceed promptly.

*On the third point, recent testimony before the Congress indicates that legislation to require other utility contributions to the cleanup is necessary to obtain those contributions. That testimony also indicates that the utility contributions are needed to carry out the other elements of the Thornburgh plan, particularly the State and GPU ratepayer contributions. Thus, it appears unlikely that the Thornburgh plan will be successful in the absence of legislation requiring other utility contributions to pay a portion of the cost of the TMI cleanup.

Apart from the Thornburgh plan, there does not appear to be any realistic alternative that would lead to the prompt solution of the financial problem. Alternatives that could provide the funds needed for the cleanup, such as ratemaking actions to recover most of the cost of cleanup from the GPU ratepayers or actions to greatly increase Federal contributions to the cleanup, have been strongly opposed by the governmental entities that must approve such alternatives. In addition, according to the General Accounting Office, the failure to resolve the cleanup funding issue could adversely affect GPU's financial condition to the point where a future insolvency could occur. GAO has found that a GPU insolvency would create new uncertainties, would likely result in a long and protracted bankruptcy proceeding, would not assure a resolution of the cleanup issue, and would likely result in added costs to ratepayers of the GPU companies and of all other electric utilities.

Given (1) the risk to public and worker health and safety from a substantial delay in proceeding with cleanup, (2) the need for a prompt solution to the financial problem in order to proceed with the remaining cleanup work, (3) the lack of a realistic alternative to the Thornburgh plan to provide a prompt solution to the financial problem, and (4) the drawbacks of insolvency that could result from the lack of a solution to the financial problem, I would support legislation to require other utilities owning nuclear powerplants to contribute a portion of the costs of the TMI cleanup.

QUESTION 9.

Do you believe the legislation, which would transfer a share of the cost of the cleanup from GPU's ratepayers to ratepayers nationwide, is an equitable solution to the present impasse?

ANSWER

I do not believe that this legislation represents a particularly equitable solution to the present impasse on financing the cost of the Three Mile Island cleanup. Nevertheless, for the reasons given in my response to Question 8, it appears that this legislation represents the best prospect for achieving the financial solution needed to avoid the increasing risk to workers and the public that would result from substantial delays in proceeding with the cleanup. There may be modifications to this legislation, such as prohibiting the pass-through of a certain percentage of the cleanup fees to be paid by other utilities or making that fee system contingent upon commitments by Pennsylvania and New Jersey officials of the remaining funds needed for the cleanup, that might at least moderate the inequities of the legislation.

QUESTION 10.

What should be the basic aims of the NRC licensing process?

ANSWER

I believe the NRC licensing process should have as its basic aims ensuring sound and effective safety, environmental, and common defense and security judgments; providing a fair and meaningful opportunity for public participation; providing stability and predictability in licensing requirements; and, consistent with the foregoing, efficient operation.

QUESTION 11.

Should not attempts to make the NRC licensing process more effective rest on the general principles of safety, public participation, and efficiency, rather than, as the Reagan Administration implied in its October 1981 nuclear policy statement, on a simplistic decrease in licensing time from 12-14 years to 6-8 years?

ANSWER

Yes, I believe they should. It may be possible to achieve some reductions in the time now required to license nuclear powerplants in this country, but I believe that licensing reform measures should be judged on the basis of the objectives identified in my response to question 10.

QUESTION 12.

Is it not true that the myriad months of delay in the NRC licensing schedule, which were reported over a year ago, have now essentially evaporated?

ANSWER

The operating license delays that were projected at the beginning of 1981 have now been eliminated due to increased NRC staff efforts in preparing plant safety reviews, the administrative changes to the hearing process adopted by the Commission, and revised utility estimates for construction completion dates. Of these three factors, the revised utility construction completion dates appear to be the most significant factor. Thus, in hindsight, it appears that the NRC licensing status reports, based upon overly optimistic utility construction completion projections, may not have presented an entirely accurate picture of the licensing situation. This experience cautions against too heavy reliance on the utility construction estimates. In the future, it may be wise to identify overly optimistic utility construction projections and to give some consideration to the uncertainties involved in making these projections. Despite these weaknesses, the review of the operating license situation last year disclosed a number of aspects of the present licensing process that deserve further consideration. These include not only the lack of attention to hearing schedules, but also more fundamental questions regarding the role of licensing hearings, the role of the licensing and appeal boards themselves, and the appropriateness of the NRC's present hearing requirements and hearing procedures.

QUESTION 13.

What additional changes do you believe should be made in the NRC's licensing process to make it more efficient, predictable and effective?

ANSWER

I am in agreement with the changes to the hearing and licensing processes that have been adopted by the Commission. These changes provide advisory schedules for licensing hearings, reduce schedule conflicts in assigning board members to licensing proceedings, streamline prehearing procedures, and limit the consideration of financial qualification and need for power issues at certain stages of these proceedings. I believe that additional administrative and legislative changes to the hearing and licensing processes should be considered by the Commission as part of its licensing reform effort. I would use as criteria for evaluating these changes their ability to ensure sound safety judgments, to provide a fair and meaningful opportunity for public participation, to improve the predictability and stability of the licensing process, and to improve the efficiency of the process. I would support consideration of a hybrid hearing procedure; greater flexibility in the licensing process to permit the expanded use of standardized designs; the use of a combined construction permit and operating license; the elimination of mandatory hearings in uncontested construction permit hearings; a standard for making backfitting determinations for operating plants and plants under construction, and changes to the formal role of the NRC staff in licensing proceedings.

QUESTION 14.

Maine Yankee is faced with two serious problems: embrittlement and steam-tube leaks. What do you believe the NRC's response will be and should be to properly and effectively address these problems? Do you see the NRC as capable today or in the near future to face these new and serious problems?

ANSWER

As I understand it, NRC has designated both the steam generator tube leak problem and the pressurized thermal shock problem as unresolved safety issues. In the case of steam generator tube integrity, I believe that work is well underway on the evaluation of this issue and NRC has a multiple-phase program that includes the actual testing of a steam generator that has been removed from service. In the case of pressurized thermal shock, the NRC staff has indicated that it will have near-term recommendations concerning regulatory requirements for the affected plants this June. A longer-term, extensive evaluation program is also underway. Both the steam generator tube integrity program and the pressurized thermal shock program are now projected to continue well into 1983.

I believe that the NRC should be able to properly and effectively address both of these problems. I would like to see the schedule for completing work on these issues, as well as the other unresolved safety issues, accelerated as much as possible.

QUESTION 15.

Is it your point of view that the nuclear utility management nation-wide is meeting its responsibility to see to it that plants are designed, constructed, and operated with safety concerns foremost in mind?

ANSWER

Although I do not have detailed familiarity with many of the utilities, my impression is that there is considerable variation among the utilities on their attitudes and commitments to safety in the construction and operation of their nuclear powerplants. I base this impression in part on the recent instances of quality assurance and quality control deficiencies in the construction of nuclear powerplants at several sites. These deficiencies would appear to evidence a lack of the management commitment needed to assure the safe construction and operation of these plants. This is a serious problem, in my view, that warrants prompt attention by both the NRC and the nuclear industry.